

### **Qualifications for Indigent Defense Panel Attorneys**

In order to assure that indigent accused receive the effective assistance of counsel to which they are constitutionally entitled, members of the indigent defense panel providing defense services should meet the following minimum professional qualifications to be considered eligible and maintain eligibility, for each level.

#### **A. Grade 6 Attorney (Death Penalty)**

- i. At least 12 years criminal defense experience and membership in the California State Bar for a minimum of 10 years;
- ii. Attorney of record in at least one hundred (100) felony\* cases, fifty (50) of which were statutorily defined serious and violent felony cases and thirty (30) of those so defined were tried to a jury, to completion.
- iii. Have completed at least one death penalty defense seminar and one homicide seminar within the previous 12 months.
- iv. Counsel wishing to serve as lead attorney in a death penalty case must have served as Keenan counsel in at least one death penalty case that was tried to completion, to a jury.
- v. Attended all required panel training and meetings during the previous 12 months, or if applicable, comply with F IV, below.
- vi. Meet all requirements for Grade 5 attorney.

#### **B. Grade 5 Attorney (Keenan Counsel)**

- .i. Meet all qualifications for Attorney Level 4.
- ii. Attorney of record in at least five (5) homicide cases, 3 of which were tried to completion to a jury.
- iii. Attended all required panel training and meetings during the previous 12 months, of if applicable, comply with F5 below.
- iv. Have completed at least one death penalty defense seminar and one homicide seminar within the previous 12 months.

#### **C. Grade 4 Felony Attorney (Homicides)**

- i. At least 10 years criminal defense experience and membership in the California State Bar for a minimum of seven (7) years.
- ii. Attorney of record in at least sixty (60) felony\* criminal cases. Twenty (20) of which must have been tried to completion to a jury. Ten (10) of those tried to completion to a jury must have been statutorily defined serious and violent felonies.
- iii. Counsel wishing to serve as lead counsel in a homicide case must have attended at least one homicide training program within the previous 12 months.

- iv. Attended all required panel training and meetings within the previous 12 months or, if applicable, comply with F IV below.

**D. Grade 3 Felony Attorney**

- i. At least 7 years criminal defense experience and membership in the California State Bar for a minimum of 5 years.
- ii. Attorney of record in at least forty-five (45) felony\* criminal cases. Fifteen (15) of the forty-five must have been tried to completion to a jury. Five (5) of the fifteen (15) must have been statutorily defined serious and violent felonies.
- iii. Attended at least one trial skills training program within the previous 12 months.
- iv. Attended all required panel training and meetings within the previous 12 months, or if applicable, comply with F IV, below.

**E. Grade 2 Felony Attorney**

- i. At least 3 years criminal defense experience and membership in the California State Bar for a minimum of 2 years;
- ii. Attorney of record in at least thirty (30) criminal cases, seven (7) of which were tried to completion to a jury. In at least five (5) of the seven (7) cases that were tried to a jury, must have served as lead counsel.
- iii. Each attorney shall be mentored at his or her first felony jury trial by an attorney grade 3, 4, 5, or 6.
- iv. Attended at least one trial skills training program approved by the Indigent Defense Panel Committee within the previous 12 months
- v. Attended all required panel training and meetings within the previous 12 months, and if applicable comply with F IV, below.

**F. Grade One Misdemeanor Attorney**

- i. Membership in the California State Bar for a minimum of six months.
- ii. Attorney of record, associate counsel, second counsel, or assistant counsel in at least three (3) criminal cases, one (1) of which was tried to completion to a jury.
- iii. Attended at least one trial skills training program approved by the Indigent Defense Panel Committee within the previous 12 months.
- iv. Watch videotapes of previous panel training held before your admission to the panel and required for your level, before being assigned to your first case.
- v. Each attorney shall be mentored in his or her first jury trial by an attorney level 3, 4, 5, or 6.
- vi. Attend all required training and meetings after admission to the panel.

**G. Juvenile Panel Attorney - See attached**

**H. Appellate Representation**

1. . Each attorney who is counsel for a case on appeal to the Sacramento County Superior Court shall be at least a Grade 2 felony attorney who also meets the following requirements:

- i. Has filed a pleading with any appellate body or court in the State of California in at least one criminal case within the past two years; **or**
- ii. Has equivalent appellate experience in other jurisdictions, or at least one year experience as a law clerk in the State or Federal Courts.

\*A felony case is one in which the cases was assigned a felony case number. i.e. Fxxxxx. This includes upgraded misdemeanors as well as felonies reduced to misdemeanors.

**Standards:**

National Advisory Commission on Criminal Justice Standards and Goals, **Task Force on Courts**, Standard 13.15.

National Legal Aid and Defender Association, **Guidelines for Negotiating and Awarding Public Defense Contracts**, 1984, Standard III-7.

National Legal Aid and Defender Association, **Standards for the Appointment and Performance of Counsel in Death Penalty Cases**, 1987, Standard 5.1.

**Commentary:**

"Effective representation can only be provided by attorneys experienced in the type of case in which they appear. The standard assigns the most difficult cases to those attorneys with the most experience and skill in trial advocacy while at the same time establishing the method for less experienced attorneys to become qualified for more serious cases."

Inexperienced attorneys cannot only deprive their clients of their right to effective counsel, they also create problems for the criminal justice system itself. Inexperienced attorneys are less able to effectively negotiate with prosecutors, thus lengthening the time needed to resolve pre-trial issues. They are less efficient in bringing cases to resolution and may burden the court with irrelevant issues and the county with unnecessary costs.

The practice of criminal law has become highly specialized in recent years. Only attorneys who possess effective trial advocacy skills and have a thorough knowledge of substantive and procedural law can be expected to competently represent persons accused of crime. Less experienced attorneys benefit from training under the direction of more experienced attorneys, acquiring theoretical and practical knowledge before they assume sole responsibility for a criminal defense."

